

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- x
A.A-B. individually and on behalf of N.B., a minor,

Plaintiffs,

**DECLARATION OF
LAUREN KOFFLER,**

-against-

No. 24 Civ. _____

NEW YORK CITY DEPARTMENT OF
EDUCATION,

Defendant.
----- x

I, LAUREN KOFFLER hereby declare, pursuant to 28 U.S.C. §1746 and subject to the penalties of perjury, that the following statements are true and correct:

1. I am the Head of Admissions, Communications and Client Relations at Shrub Oak International School (“Shrub Oak”) in Mohegan Lake, NY. I have held this position since March of 2018.

2. In this role, I, along with the rest of the admissions team that I oversee, evaluate applications and interview parents, teachers, and clinicians familiar with potential students to determine their appropriateness for Shrub Oak’s program.

3. In 2007, I graduated from the University of Wisconsin-Madison in Madison, Wisconsin. I hold a Master’s degree in Social Work from the Fordham University in the Bronx, New York. I have been working in education field for the past twelve years.

Shrub Oak International School

4. Shrub Oak International School is a program for students on the autism spectrum who face complex challenges and who need significant adult support. It is a private, therapeutic day and boarding school for students aged seven and above. The school serves students across all

developmental levels and student profiles. Typical diagnoses for Shrub Oak students include Autism Spectrum Disorder, Nonverbal Learning Disability, Reactive Attachment Disorder, Social Pragmatic Communication Disorder, ADHD, Twice Exceptional, Dual Diagnoses of Autism and Co-Occurring Conditions including Visual and Hearing Impairments, and other related disorders. Shrub Oak specializes in working with students who present challenging behavior.

5. Shrub Oak is on 127 acres of wooded hills about 30 minutes north of New York City. We offer educational opportunities for students in a family-centric, supportive environment. Classrooms are equipped with state-of-the art technology, and our curriculum is based on evidence-based clinical and academic approaches in Autism education.

6. The mission of Shrub Oak International School is to improve the lives of children, adolescents, and young adults on the autism spectrum. We help our students form positive relationships through individualized strength-based learning and equip them with the tools they need to successfully interact with others within their classrooms, their homes, and their communities. We develop our own transdisciplinary curriculum, which is based on New York state learning standards and is designed to meet each student's individual goals and needs.

7. Shrub Oak is accredited by Cognia, an independent accreditation agency made up of educators, and follows the New York State curriculum, modified as necessary for our students' needs and abilities.

8. We are a small school. There are 80 students total for the 2024-2025 school year.

9. At Shrub Oak, we meet students with Autism Spectrum Disorder ("ASD") at their individual cognitive level in core academics such as math, science, English, and social studies. We offer a varied curriculum, grounded in evidence-based principles for teaching students with

ASD, with options designed to meet each student's individual goals. Tailored to the characteristics and needs of each student, our academic program adapts to the constantly evolving needs of children, adolescents, and young adults on the autism spectrum.

10. Shrub Oak's Elementary Core Program curriculum is based on the New York State Generation Standards with an emphasis on English Language Arts, Mathematics, Science, Social Studies, Art and Music with an emphasis on Activities of Daily Living. Each of the curriculum areas are presented to students via the Effective Direct Instruction Model. Students engage in project-based learning and participate in frequent community engagement outings, which reinforce skills needed for transition to the next logical education environment. Typically, students in the Elementary Core Program are identified with ASD levels 1 or 2 with academic, social and communication skills below grade level along with an inconsistent ability to self-regulate. All classes have a foundation of Trauma-Informed care. The staff ratio in the program is 2:1 or 1:1 depending on each student's level of need. There are no more than eight students in each classroom.

11. When a student starts at Shrub Oak, informal assessments are performed, based on the clinician and teacher observations. After the student forms a relationship with the staff, more formal assessment is incorporated to understand their academic functioning, skills, and deficits. Goals and objectives are developed based on these formal and informal assessments.

12. The hallmark of our program is our transdisciplinary approach. When a student begins their journey at Shrub Oak, they are assigned a team comprised of teachers, clinicians, and campus life staff. In concert with the student and family, the student's team creates an Individualized Transdisciplinary Education Plan (as further explained below) to determine

appropriate goals for each student. Twice weekly, the student's team meets to review the student's progress toward those goals, to celebrate accomplishments, and adjust, as necessary.

13. Another distinguishing feature of Shrub Oak is a combined use of two leading peer-reviewed and science-based teaching methodologies: the Applied Behavior Analysis ("ABA") and the Developmental, Individual Difference, Relationship-Based ("DIR/Floortime"), as well as Universal Design for Transition ("UDT") and Self Determined Learning Model of Instruction ("SDLMI") as the foundation for individualized programs.

14. UDT and SDMLI serve as the underpinnings of the Shrub Oak curriculum because they have been shown to be highly effective in engaging people with learning and behavior challenges, and in preparing them for more successful adult living.

15. For some students Shrub Oak carries out a Functional Behavioral Assessment ("FBA") and develops a comprehensive Behavior Intervention Plan ("BIP"). An FBA is conducted by a Board Certified Behavior Analyst ("BCBA") or Licensed Behavior Analyst ("LBA") with input from the student's teachers, teacher assistants, related service providers, and parents. Shrub Oak's methodology for conducting functional behavior assessments complies with NYS regulations and is state-of-the-art within the ABA field. BCBA/LBA and staff are constantly observing and collecting data on the student's behaviors (i.e., including both learning and performance behaviors) and conducting ongoing assessments to consider modifications in the function-based interventions in his or her program as needed.

16. Our aim is to create an appropriate and productive peer environment. Students receive individualized instructions utilizing ABA and DIR/Floortime methodologies throughout a school day. We ensure that two or more students are able to work together (e.g., taking turns, sharing materials, waiting for his/her turn to speak, etc.) and provide opportunities to work on

students' ability to participate in small group instruction (e.g., sitting nicely, paying attention to the teacher, following instruction presented to a group of students, answering questions, etc.). At the same time, we want each child to have an opportunity to be a positive role model and be challenged within the classroom and Shrub Oak's educational and therapeutic facilities. We strive to teach all skills to mastery and ensure the fluency, application, and generalization of skills in repertoire so that students can achieve their potentials and successful integration into society.

17. The same behavior modification program and instructional approach used in the educational program is used in the residential component of Shrub Oak's program which allows the student to progress in both school and residential environments.

18. We employ BCBAs to oversee the implementation of ABA therapy and behavior intervention plans for students that require it. ABA is a scientifically validated approach for students with autism. Many scientific studies have established that long-term and intensive therapy, using ABA principles with young children with autism significantly improves the outcome for those children. Data collection and analysis is an imperative component of an ABA program. The ABA instructors measure progress by data collection during each session. Each goal or program (or smaller step within a goal) has a specific mastery criterion.

19. Shrub Oak also provides instruction in daily living skills and travel training as needed.

20. At Shrub Oak, we utilize the Universal Design for Learning framework, which incorporates scientific research on how students learn to optimize teaching for all people. This program has been shown to be highly effective in engaging students with behavioral and learning challenges, by modifying and adapting instruction to meet their abilities. The program is based

on principles of Universal Design, and includes multisensory presentation of information, multiple approaches to assessment, and multiple means of engagement, including connecting instruction to personal interests to increase motivation.

21. As part of our residential program, students are supported through planned recreational programs on- and off-campus. Students are supported in all areas of their home life, including activities of daily living, community interactions, hygiene routines, peer interaction, mealtimes, etc. Students in our residential program work on independent living skills, social development and relationship building with the support of staff and a clinical team. Students receive meals, recreational activities, opportunities for community involvement, and opportunities for vocational and in-house and external internship experiences. There are also student clubs, including yoga, movies, photography, and a magazine club that puts out a regular publication. Students also take regular trips, including to a nearby park.

22. We provide 1:1 support for students when necessary, and we ensure that 1:1 providers have appropriate relevant training and experience for the student to which they are assigned.

23. Shrub Oak is different from many residential schools in that it is a secure campus with a high-level of clinical, educational, and security staffing, a very low staff-to-student ratio, and a full transition program. The school and residences are situated in a large single building, which enhances security while also providing students with access to their living areas and class areas at all times. For example, teachers can readily visit students in their rooms if they are ill, and students can access class projects after hours. The educational staff start at 7:45 in the morning and meet the students, helping transition them into the school day. This allows us to meet the needs of students with intensive needs, including serious disruptive behaviors, who may

have been unsuccessful even in other therapeutic boarding schools or residential treatment centers.

24. The school facilities include a working farm, with live animals which allow students to gain experience in animal care and gardening, and create a model farmer's market, a life skills house equipped to allow students practice a variety of life skills including cooking, laundry, eating, and cleaning.

25. Upon arrival at Shrub Oak, students are assigned a team that consists of education, campus life, and clinical services. The student's team meets regularly and work together on goals. The team work off the student's IEP for the first six to eight weeks, then rewrite it into an ITEP (Individual Transdisciplinary Education Plan.)

26. At Shrub Oak, we meet students with Autism Spectrum Disorder at their individual cognitive level in core academics such as math, science, English and social studies. We offer a varied curriculum, grounded in evidence-based principles for teaching students with ASD, with strategies designed to meet each student's individual goals. Tailored to the characteristics and needs of each student, our academic program adapts to the constantly evolving needs of the children, adolescents, and young adults on the autism spectrum.

27. Our teachers are experts at working with students with Autism Spectrum Disorder as well as students with related disorders including Nonverbal Learning Disability; Social Pragmatic Communications Disorder; and ADHD. We also work with students dually diagnosed with ASD and visual and hearing impairments.

N.B.'s Application Process and Acceptance to Shrub Oak

28. On October 22, 2024, we received a referral packet from N.B.'s educational consultant. The referral packet included the student's diagnostic and medical history along with

a letter from his psychiatrist. N.B. has diagnoses of Autism Spectrum Disorder, Separation Anxiety Disorder, and Attention-Deficit and Hyperactivity Disorder. The psychiatrist letter emphasized N.B. often exhibits attention seeking behaviors and poor impulse control and lacks insight into how his behaviors affect others. Also, due to a low frustration tolerance, N.B. has a history of exhibiting verbal and physical aggression. N.B. also exhibits substantial separation anxiety from his mother. N.B.'s psychiatrist recommended a residential school setting with unique experience working with children with higher functioning ASD who have co-occurring mental health needs.

29. N.B.'s referral packet also included a letter from the Titus School, which was N.B.'s day school placement for the 23-24 school year. The letter stressed that N.B. requires consistent 1:1 support to access the curriculum and make progress at school. Absent the constant 1:1 support provided at school, N.B. continued to demonstrate intense, severe, and frequent high-risk behaviors across settings including school bus, community and home. The Titus School stressed that N.B. required a supportive residential school setting.

30. Finally, the referral packet included a treatment plan from Intermountain Residential Treatment Center (Intermountain), the residential program from which N.B. was being discharged. The treatment plan outlined N.B.'s challenges and goals, including attention seeking behaviors and separation anxiety from his mother.

31. As part of my portfolio, I oversee an admissions team that includes two Directors of Admissions, Rachael Erenberg, LCSW and Sean Haggerty, MSW. The three of us reviewed and discussed N.B.'s referral packet. We all agreed that N.B.'s diagnoses and behavior profile appeared was in line with other students we have served at Shrub Oak. Accordingly, we decided

to advance N.B.'s application process to the final stage, which entailed interviewing N.B.'s mother, teachers and clinicians.

32. On November 8, 2024, Mr. Haggerty and I conducted virtual interviews of N.B.'s psychiatrist and members of his treatment teams from both Titus and Intermountain. That same day, Ms. Erenberg interviewed N.B.'s mother and provided her with a tour of the campus. During these interviews, N.B.'s clinicians and educators gave us a more complete picture of the nature of N.B.'s learning profile and there is no doubt that N.B. requires a therapeutic, residential placement as he has a unique combination of diagnoses and engages in a complex and challenging range of behaviors. We unanimously determined that N.B.'s profile is similar to other students we serve at Shrub Oak, and that he would be an appropriate fit for our Elementary Core Program.

33. I believe our staff has the necessary experience and expertise to support N.B. so he can make therapeutic and academic progress at Shrub Oak.

Shrub Oak Tuition

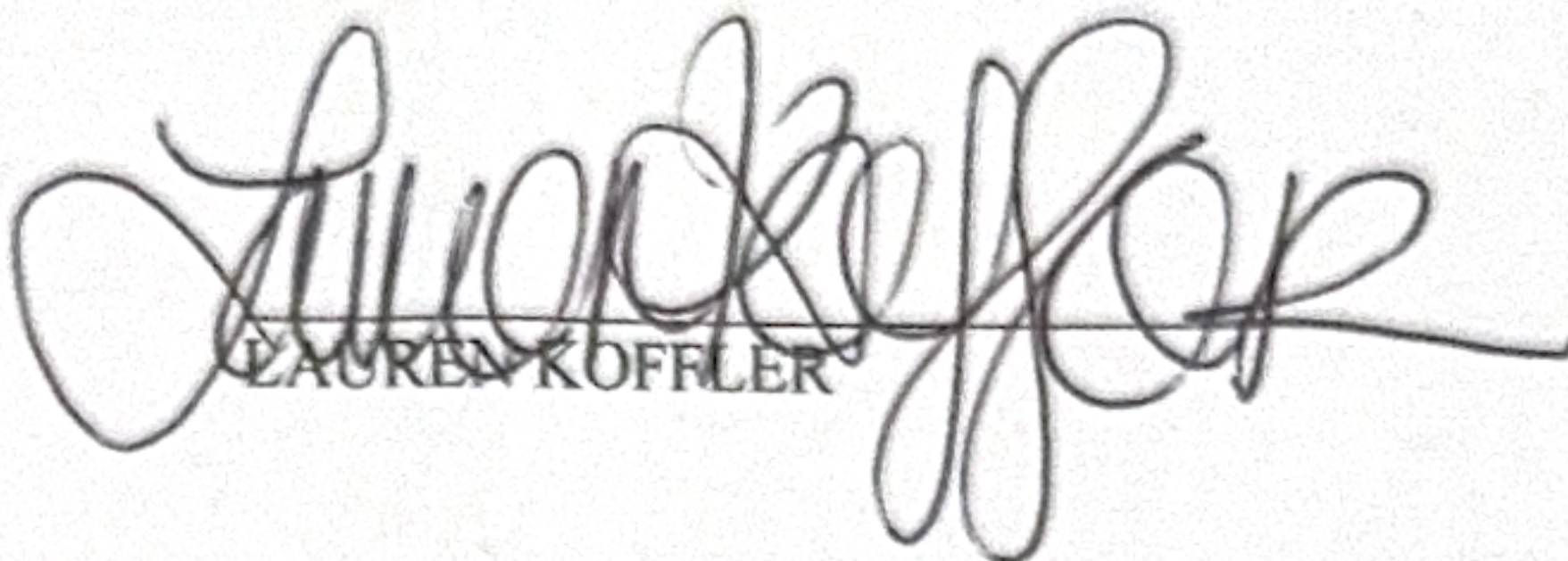
34. There are three tiers of tuition for residential students at Shrub Oak. For students that do not require 1:1 support, the tuition is \$6,500/week. For students that require 1:1 support for eight hours each weekday (8x5) the tuition is \$8,250/week. For students that require full-time 1:1 support (16x7) the tuition is \$11,500/week.

35. Based on our extensive review of N.B.'s evaluations and reports from myself, Ms. Erenberg and Mr. Haggerty, we believe N.B. requires full-time 1:1 support both for safety reasons and to make academic and behavioral progress. If the time comes during N.B.'s time at Shrub Oak when our clinical team decides he is ready for a less restrictive program, we will

reduce N.B.'s level of support and adjust his tuition amount. As with all our students, our objective is to remove supports and promote increased independence when N.B. is ready.

36. All our incoming students must have tuition funding in place at the time of enrollment. N.B.'s mother informed us that she is bringing this lawsuit to secure funding for N.B.'s enrollment; we have agreed to hold his place pending the outcome of this proceeding.

Dated: November 22, 2024
Mohegan Lake, NY



LAUREN KOFFLER